

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4813 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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JADIBEN BHAGAJBHAI THAKOR

Versus

SECRETARY

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Appearance:

Mr.J.M.Patel for Mr. B.S.Supehia, Advocate for the petitioner.

Mr. U.R.Bhatt, AGP for the respondents.

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 01/08/96

ORAL JUDGEMENT

Petitioner Jadiben Bhagabhai Thakor the wife of the detenu Bhagaji Saluji Thakor has challenged the order of her husband's detention dated 20th March 1996 passed under section 3 (2) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act (hereinafter referred to as "the said Act") by the District Magistrate, Mehsana.

Considering the allegations made in the grounds of detention supplied to the detenu, the detaining authority has recorded the satisfaction that with a view to preventing the detenu from acting in any manner prejudicial to the maintenance of supply of commodities essential to the community it is necessary so to do passed the order of detention.

Since the petition is required to be allowed on the short ground of supplying illegible document to the detenu, it is not necessary to refer to and deal with the other grounds raised by Mr. Patel, learned Advocate for the petitioner and the various allegations made in the grounds of detention. Mr. Patel submitted that the document at page 95 supplied to the detenu is not at all legible and, therefore, the detenu could not make an effective representation as guaranteed to him under Article 22 (5) of the Constitution of India. He, therefore, submitted that the detenu is required to be released forthwith on this ground only.

Document at page 95 of the bunch of documents supplied to the detenu is an extract of the Register of Permits (Issue Made From Godowns) Form H maintained by the Gujarat State Civil Supplies Corporation Limited . Having perused the same, Entry 63 therein is not legible at all. Mr. Bhatt, learned Assistant Government Pleader, appearing for the respondents has submitted that what is necessary for the detenu is entries 68 to 72 in the said extract and , therefore, entry 63 ,which is not legible, is not relevant for him. He therefore submitted that no prejudice is caused to the detenu by not supplying legible entry 63 in the said extract. I am afraid the explanation tendered by Mr. Bhatt is not sustainable. Whatever document on which reliance is placed is to be read as a whole and no bifurcation can be made thereof by stating that a particular portion is not relevant for the purpose of the detenu because that part is not relied upon by the detaining authority. It may be that what the detaining authority considers irrelevant may be relevant for the detenu for the purposes of making an effective representation against his detention. Therefore the copy of the document supplied to the detenu must be legible in its entirety and no portion thereof can be kept back from him, particularly when the detaining authority has not claimed privilege that it is not in the public interest to disclose the same to the detenu .Since nothing is legible as far as entry 63 is concerned in the document supplied to the detenu, I am of the opinion that the detenu has been denied his right to make an effective

representation against his detention guaranteed under Article 22 (5) of the Constitution of India. Therefore, the continued detention of the detenu is vitiated.

In the result, this petition is allowed. The detention order dated 20-3-1996 is quashed and set aside. The detenu Thakor Bhagaji Saluji is directed to be set at liberty forthwith if his detention is not required for any other purpose. Rule is made absolute accordingly with no order as to costs. Writ to be sent to the Superintendent, Central Prison, Bhuj.

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True copy